

Remarks

This is in response to the final Office Action mailed August 3, 2005. Certain post-final amendments to the claims have been presented above to add new claims 45-51.

These new claims are believed to be proper, do not introduce new matter, and will not raise any new issues for consideration or searching beyond that which may be carried out by the Examiner upon the other claims currently pending in the application. Entry and allowance of these newly added claims are therefore respectfully requested.

**Rejection of Claims Under 35 U.S.C. §103(a)**

The final Office Action provided a final rejection of pending claims 31-33 and 35 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,185,063 to Cameron ("Cameron '063") in view of U.S. Patent No. 5,682,360 to Oshima ("Oshima '360"). Pending claims 42-44 were finally rejected under §103(a) as being obvious over Cameron '063 in view of Oshima '360, further in view of U.S. Patent No. 6,061,197 to Wiselogel ("Wiselogel '197"). These rejections are respectfully traversed.

The Applicant respectfully submits that Cameron '063 is not available for consideration in a rejection under 35 U.S.C. §103(a) pursuant to the statutory language of §103(c).

Cameron '063 issued on February 6, 2001. The present application has a filing date of September 27, 2001 and makes a claim of domestic priority under §119(e) to U.S. Provisional Application No. 60/235,609 filed September 27, 2000. Hence, Cameron '063 is only available for consideration under §102 as prior art under §102(e).

Cameron '063 and the present application are both assigned to a common assignee,

Seagate Technology LLC. The named inventors in the present application had an obligation of assignment to Seagate Technology LLC when the claimed invention was made.

Under these circumstances, §103(c)(1) applies and Cameron '063 is not available as prior art for purposes of §103(a). Accordingly, the rejections of claims 31-33, 35 and 42-44 are improper and should be withdrawn on this basis.

The Applicant apologizes for not having brought this situation to the attention of the Examiner earlier. Nevertheless, the present notification is believed to be timely, and the statutory language of §103(c) cannot be waived by either the Examiner or the Applicant.

The Applicant further notes that Wiselogel '197 is not available under §103(c). According to USPTO records, Wiselogel '197 was assigned to Seagate Technology LLC on July 28, 2000, which precedes the September 27, 2000 filing date of the '609 Provisional Application. As before, the named inventors in the present application had an obligation of assignment to Seagate Technology LLC when the claimed invention was made.

#### Newly Added Claims 44-51

New independent claim 45 generally features a data storage device comprising a rotatable storage medium on which at least a first region and a second region are defined, wherein the first region comprises a plurality of adjacent and radially overlapping data tracks, wherein the second region comprises a plurality of adjacent data tracks, and wherein a guard band separates the first region and the second region. Support for this is found including in previously presented claim 31, FIGS. 13-14, and the specification at page 18, lines 3-27. The subject matter of claim 45 is believed to be patentable over the art of record

as discussed above.

Newly added dependent claims 46-51 are believed to be patentable on the basis that these claims depend from a patentable base claim.

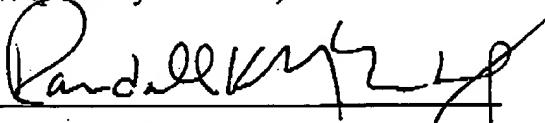
**Conclusion**

The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application. This Response is intended to be a complete response to the final Office Action mailed October 3, 2005.

Should any questions arise concerning this response, the Examiner is invited to contact the below signed Attorney.

Respectfully submitted,

By:



Randall K. McCarthy, Registration No. 39,297  
Mitchell K. McCarthy, Registration No. 38,794  
Fellers, Snider, Blankenship, Bailey and Tippens  
100 N. Broadway, Suite 1700  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 232-0621  
Facsimile: (405) 232-9659  
Customer No. 33900